IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 31 OF 1996

Ravindra Vaijanath Shukla
Age-31 years, Occ.- Business,
having his business Near Railway
Gate, New Panvel, Resident of
Kalamboli Colony, KL-4/14/7,
CIDCO Colony, Tal. Panvel,
Dist. Raigad. .. .. Appellant
[Accused]

Versus

The State of Maharashtra,
[At the instance of Panvel
City Police Station,
Panvel, Dist. Raigad] .. .. Respondents
[Complainants]

Mr. S.P. Kadam for the Appellant

Mr. B.H. Mehta, Public Prosecutor for the State.

CORAM : S.K. SHAH, J.

DATED : 7.12.2004.

ORAL JUDGMENT :

1. This appeal is directed against the order of

conviction and sentence passed by the Special Judge [Essential Commodities Act], Raigad- Alibag in Special Case No. 3 of 1992, whereby the Appellant / accused was convicted of the offences punishable under section 3 r/w section 7 of the Essential Commodities Act for having committed breach of clause 6 of the Kerosene [Fixation of Ceiling Prices] Order, 1970 and sentencing the appellant/ accused to suffer R.I. for three months and to pay fine of Rs.500/- in default to suffer R.I. for one month.

2. The learned Counsel representing the appellant / accused submits that he does not want to challenge the order of conviction passed against the appellant / accused. However, he submits that leniency should be shown to the appellant / accused. He submits that the appellant's Kerosene Dealer Licence has been confiscated soon after the incident. The appellant / accused is the handicapped person and was holding a licence for sell of kerosene. He submits that the appellant / accused has been sufficiently punished by cancellation of his licence and he is unemployed.

3. The learned Public Prosecutor submits to the orders of the Courts.

4. The Clause -6 of the order of which the breach was committed, which required the appellant / accused, being the holder of the licence under the aforesaid order for selling of kerosene to produce the Stock Register and accounts before the officers namely Tahasildar and the Supply Officer. However, the appellant / accused had failed to do so, not only at the time of inspection, but also subsequently when he was called upon by communication to produce these documents before the Tahasildar [PW2]. This offence is punishable under section 7 r/w section 3 of the Essential Commodities Act. The penalty is prescribed in section 7(1)(a) (i) of the Essential Commodities Act, 1955, which reads as under :

> *Section-7- Penalties [1] If any person contravenes any order made under Section- 3- (a) - he shall be punishable - (i) in the case of an order made with reference to Clause (h) or Clause (i) of sub-section (2) of that section, with imprisonment for a term which may extend to one year and shall also be liable to fine,*
>
> *Sec.3(2)(h) provides -*
>
> *- requiring a person engaged in the production, supply or distribution of, or trade and commerce, in any essential commodity to maintain and produce for inspection such books, accounts and records, relating to their business and to furnish such information relating*

thereto as may be specified in the order [Sec. 7(2)(i)].

Clause - (h) of sub-section 2 of that section provides for collecting information and maintenance and produce for inspection books of accounts and the documents and records relating to the business and to supply such information as prescribed in the order.

Thus, the offence is punishable with imprisonment which may extend to one year and shall also be liable to fine.

6. Taking into consideration the fact that the appellant / accused is a physically handicapped person and his licence has been cancelled and that he is presently unemployed, this is a fit case where leniency is required to be shown. Hence I feel that the following order would meet the ends of the justice. Hence order :-

ORDER

1. The order of conviction of the offence punishable under section 7(3) of the Essential Commodities Act r/w clause (6) of the Kerosene [Fixation of Ceiling Prices] Order, 1970 is hereby confirmed.

2. The order of sentence is, however, modified and replaced as under-

3. The appellant / accused - Ravindra Vaijanath Shukla is now convicted till rising of the Court instead of R.I. for three months as ordered by the Trial Court and to pay fine of Rs. 3000/- [Rupees three thousand] instead of Rs.500/- as ordered by the Trial Court.

4. Appeal is accordingly disposed of.

[S.K. SHAH, J.]

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[Complainants]

Mr. S.P. Kadam for the Appellant

Mr. B.H. Mehta, Public Prosecutor for the State.

CORAM : S.K. SHAH, J.

DATED : 7.12.2004.

For the reasons separately recorded in the Judgment, following order is passed :

ORDER

1. The order of conviction of the offence punishable under section 7(3) of the Essential Commodities Act r/w clause (6) of the Kerosene [Fixation of Ceiling Prices] Order, 1970 is hereby confirmed.

2. The order of sentence is, however, modified and replaced as under-

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4. Appeal is accordingly disposed of.

[S.K. SHAH, J.]